Filed 6/17/19 In re D.E. CA2/4

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re D.E., a Person Coming Under the Juvenile Court Law.	B293175 (Los Angeles County Super. Ct. No. 18CCJP04685 18CCJP04685A)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. S.E., Defendant and Appellant.	

APPEAL from an order of the Superior Court of Los Angeles County, Stephen C. Marpet, Juvenile Court Commissioner. Affirmed.

Caitlin U. Christian, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Veronica Randazzo, Deputy County Counsel, for Plaintiff and Respondent.

INTRODUCTION

After S.E. (mother) gave birth to her daughter, D., hospital staff contacted the Los Angeles County Department of Children and Family Services (DCFS), reporting that mother was acting erratically and inappropriately toward staff. Mother's parental rights to her older child had been terminated the month before D. was born. In light of mother's DCFS history, mother's mental health history, and mother's actions in this case, DCFS detained D.

Mother now challenges the juvenile court's finding of jurisdiction over D. under Welfare and Institutions Code section 300, subdivision (b).[1] We find that substantial evidence supports the jurisdictional finding, and affirm.

FACTUAL AND PROCEDURAL BACKGROUND

A. *Detention*

According to the detention report, D. came to the attention of DCFS five days after her birth in July 2018. A hospital social worker contacted DCFS, alleging that mother had mental health issues and an extensive DCFS history. After birth, D. was placed

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[1]All further statutory references are to the Welfare & Institutions Code unless otherwise indicated.

in the neonatal intensive care unit (NICU) due to "anomalies." When D. was ready to be moved from the NICU to the nursery, mother expressed "paranoid beliefs" about the nursery and did not want the baby to go there. Mother also told hospital staff that she would lie to the hospital social worker "and say all the right things in order to get her and the baby discharged from the hospital." Mother stated that she "hates all psychologists because they lock her up."

At the hospital, mother had been "defensive, exhibiting somewhat erratic behavior," and had not provided staff with a home address. Mother told the hospital social worker that she and the baby planned to live with her mother (maternal grandmother) and a maternal aunt. Mother also said she had lost custody of her oldest son, age two, who was being adopted by his foster mother. The foster mother and son visited mother in the hospital, and mother appeared "sweet and appropriate" with the child. Mother also had another son who was adopted at birth.

Mother had a history of mood disorder, anxiety, oppositional defiance disorder, post-traumatic stress disorder (PTSD), and said she had been psychiatrically hospitalized as a child for ADHD, violence, and behavioral issues. Mother denied any current mental health issues, and there was "no indication of mother wanting to hurt herself or the baby." Mother said she suffered from postpartum depression after her two previous births. Mother had "exhibited mood lability in the hospital, acting somewhat histrionic/dramatic, somewhat attention seeking." She denied taking medication and said she was not interested in taking any medications. Mother, age 21 at the time, "reported being pregnant 17-18 times," but had also reported in the last year that "she's had 15 pregnancies: 12 spontaneous

abortions, 1 elected abortion, 1 preterm delivery, and 1 term delivery."

A DCFS children's social worker (CSW) went to the hospital and interviewed a doctor, who noted that mother "has been unstable at times due to her erratic behavior in the hospital," including using profanity toward hospital staff. The doctor said there were "concerns due to the mother's inconsistencies, and the mother . . . not disclosing her history and providing inaccurate information." The hospital psychiatric department had conducted an assessment of mother and "did not feel comfortable releasing child into mother['s] care due to her history and current dysfunctional and erratic behavior."

The CSW interviewed mother, who became dismayed and started to cry when she realized DCFS was investigating. Mother said she was well prepared for this child, and "she decided to give her [older] children away because she was not in a healthy place at the time." Her middle child, M., age one, was adopted at birth through a private adoption. Mother said she realized she failed the older child, S., age two, who was now better off in foster care, so mother "decided to let foster parents adopt" S. The CSW expressed concern that mother had failed to unify with S., but mother said that had been intentional.

Mother denied mental health issues and denied seeing a therapist. Then mother admitted having PTSD and said she was seeing a therapist for that, but when the CSW asked when she last saw the therapist, mother said she could not remember. When the CSW asked about mother's outbursts in the hospital, mother said, "I don't know what you're talking about." The CSW noted, "It appeared that the mother is in denial about her mental

health status, which presents a concern, as it remains unaddressed." Mother said D.'s father was unknown.

The CSW interviewed maternal grandmother at the hospital. Maternal grandmother said mother was being penalized for her past history with DCFS, when in fact mother had voluntarily given up the older children. Maternal grandmother said she was willing to care for the baby, and she would "fight to the end" for her grandchild. Maternal grandmother "became aggressive with CSW with her tone and CSW expressed to her that the interview would be terminated if she didn't bring her tone down. Due to [maternal grandmother's] aggressive behavior, CSW had to terminate the interview." DCFS noted that maternal grandmother also had a DCFS history involving mother.

The CSW noted mother's previous history with DCFS. In February 2016, DCFS was asked to do a welfare check on six-month-old S. A general neglect report was deemed unfounded. On March 13, 2016, mother and S.'s father were in a violent altercation at two o'clock in the morning with S. in the room. S.'s father was arrested. On March 16, 2016, a caller from a domestic violence shelter where mother was staying reported concerns about mother reporting physical abuse by S.'s father, such as throwing S. across the room, and stating, "but that's normal, right?" Mother was using clove oil to address S.'s teething pain, but when she put it in S.'s mouth, "[t]he child began to cry and scream." Mother also purportedly went into a private room to give a suppository to S., and he was heard "screaming in pain." When mother emerged, her "finger was brown to the middle knuckle." When someone expressed concern about the damage she could do to the child's intestines by putting her finger in S.'s

anus, mother said she "could feel something in there and wanted to get it out." It was also reported that mother gave S. to "anyone at the shelter whether she knows them or not, and mother "frequently wakes up the director of the shelter claiming the child wants the director to hold him."

DCFS deemed general neglect, physical abuse, and sexual abuse claims "substantiated" as to mother. S. was declared a dependent of the juvenile court on July 6, 2016; the petition focused only on the domestic violence between mother and S.'s father. The court sustained an allegation under section 300, subdivision (b), stating that mother and S.'s father engaged in multiple violent altercations with the child present, placing the child at risk of harm. In January 2018, family reunification services for mother were terminated. The CSW noted that a May 2018 "court report" regarding S. "expressed serious ongoing concerns regarding the mother's ability to parent." In a psychological evaluation, mother was diagnosed with PTSD and "Unknown Substance Use Disorder, Moderate, in Sustained Remission." A CSW working on S.'s case noted that mother was "defensive and argumentative with service providers in the presence of the child while disregarding valid input from [S.]'s primary caregiver." Mother had attended parenting classes, but "was unable to apply the skills taught in these sessions." Mother had "not been able to demonstrate the ability to be left alone with the child outside a structured setting."

Following D.'s birth, she had been diagnosed with "multiple congenital anomalies, dysmorphic facial features," and other anomalies. She did not need special care at the time she was ready for discharge from the hospital, but she would require many follow-up appointments. The detention report stated that

mother's unaddressed mental health issues and "ongoing history with DCFS" prevented her from appropriately parenting D. It also said, "Given mother's behavior in the hospital, the fact that the mother's mental health remains unaddressed and the mother is unwilling to seek psychiatric assistance, the mother's lack of cooperation and the child's young, vulnerable age and the amount of medical care that will be required due to her birth anomalies, there was concern that the mother would have [*sic*] the ability properly care for the child." DCFS considered the risk for future abuse or neglect to be high, and detained D. The hospital allowed D. to stay there pending placement.

On July 26, 2018, DCFS filed a petition under section 300, subdivision (b), alleging that mother "has an extensive history of mental and emotional problems, including a diagnosis of PTSD, Mood Disorder, Oppositional Defiance Disorder, and Anxiety. The mother has a history of exhibiting paranoid and erratic behavior, and a history of postpartum depression. At the birth of the child, the mother exhibited unstable and erratic behavior at the hospital, including yelling obscenities and paranoid behavior. Such mental and emotional problems on the part of the mother endangers the child's physical safety and places the child at risk of serious physical harm, and danger."

An addendum report stated that the CSW spoke with mother two days after her initial interview. Mother said she did not understand why D. was removed from her care. Mother said her PTSD was being treated, and did not affect her ability to care for D. She said the CSW at the hospital was biased and just came in and announced that the child would be detained.

Prior to the detention hearing, mother submitted several letters to the court. A letter written by mother stated that S. was

born in September 2015, and detained in April 2016. Mother learned she was pregnant again about a month later, and went to a domestic violence shelter. M. was born in December 2016, and went to a pre-arranged adoptive home. Mother said she worked hard to regain custody of S. by attending parenting classes and otherwise complying with juvenile court orders, but ultimately "came to the realization that [S.] was in a place that was good for him, and made the very difficult decision to allow the foster family to adopt him." Shortly thereafter, mother learned she was pregnant again. "By this time, I had successfully re-established a relationship with my mother," and "I could see a future for me parenting this child with the help and support of my mother and other family members."

Another letter from the Venice Family Clinic stated that mother was "currently enrolled in the prenatal option of the Children First Early Head Start Program," which was described as a "comprehensive child development program" for families expecting babies or with children under the age of three. A letter by a physician stated that mother had been under the physician's care "for 2 consecutive pregnancies (2016 and 2018)." A third letter was by a La Leche League leader, who called mother by a different first name. She said she met mother about a year and a half earlier, when mother gave birth to her second child, M. The letter stated that when D. was born, mother "was 100% there for her baby," and pumped her breast milk for D. Two other letters vouched for mother's character.

At the detention hearing on July 27, 2018, mother said she was living with maternal grandmother. The court asked mother, "[Y]ou've indicated that you don't know who the father is?" Mother responded, "That's correct." When pressed for any

guesses as to who the father could be so he could receive notice, mother continued to say that she did not have any names "for any possible father."

As to detention, mother's counsel argued that D. should be returned to mother's care because hospital staff observed mother to be appropriate with D., mother was appropriate with S. when he visited, D. was born without drugs in her system, mother had been receiving services and prenatal care, and mother had "taken every precaution" to have a healthy child. Mother's counsel said there was nothing in DCFS's report showing that mother placed the child at risk, and the report said there was no indication that mother wanted to hurt herself or the baby.

Counsel for D. stated that mother's DCFS history needed to be considered. In addition, the staff at the hospital were so uncomfortable with mother's behavior that they alerted DCFS. Although mother had participated in programs with S., "it was just not enough for anyone to feel comfortable leaving mother alone with" S. Counsel for DCFS stated that monitored visitation and breastfeeding to support bonding between mother and D. would be fine, but mother was not in any therapy and was not addressing her mental health issues.

The court ordered D. detained with monitored visits for mother, and set an adjudication hearing for October 4, 2018. The court ordered reunification services, and instructed DCFS to assess maternal grandmother for D.'s placement.

B. *Jurisdiction/disposition report*

A jurisdiction/disposition report dated August 21, 2018 stated that mother was interviewed on August 6. Mother said she had PTSD following sexual assaults when she was 14 and 17 years old. Mother denied psychiatric hospitalizations, and said

she currently did not feel the need for psychiatric medications or therapeutic services. Mother said her DCFS history was being portrayed inaccurately because S.'s adoption was "her will and her decision," and M. was adopted through a private agency. Mother said she was ready to be a parent now with D., and she had a strong support group. Mother said she did not want to discuss her gynecological health or her pregnancies. Mother wanted to reunify with D. quickly so that D. would not form an attachment with her current caregiver. At a monitored visit, the CSW noted that mother was bonding well with D., mother breastfed D., and mother appeared relaxed and comfortable with the baby. A medical assessment of D. at three weeks old noted that D. was medically stable, but would need to "follow up with subspecialists for diagnostic and future management decisions."

Maternal grandmother said mother did not live with her while she was pregnant, and did not tell her she was pregnant. When maternal grandmother asked mother about her pregnancy, mother asked, "[H]ow do you always find out about these things?" Maternal grandmother said that if D. was not released to mother, maternal grandmother would be willing to care for her. However, when the CSW asked maternal grandmother about DCFS investigations when mother was a child, maternal grandmother said that "the referrals were not on me." Maternal grandmother said her own mother had been "coercing" the children to make them say bad things about maternal grandmother.

A maternal aunt, mother's sister, who lived in the back house on maternal grandmother's property, said she did not know mother. However, the aunt also complained about mother's friends coming over and staying all day. When asked if D. would be safe with mother, maternal aunt shook her head no. Maternal

aunt said the DCFS investigations from when she and mother were children were not related to any child abuse by maternal grandmother.

An Early Head Start program professional said mother had been receiving Early Head Start services since May and was seen once a week at the office. The professional said mother was "outspoken, focused, [and was] taking responsibility for her actions." Mother had been homeless, but she planned to move in with maternal grandmother when the baby was born. The program was prepared to offer mother in-home visits if the baby were placed with her.

A CSW who worked on S.'s case said that mother "was not capable" of performing parental duties with S. M.'s adoptive parents had also contacted the CSW, stating that although they had agreed to an open adoption with mother, "they were forced to limit mother's interaction." The CSW opined that mother was not able to accept responsibility for D.'s care. An "individual who requested to remain anonymous" also stated that mother was "not stable and would not be an appropriate caregiver" for D.

The jurisdiction/disposition report stated that mother "appeared willing and interested" in caring for D. "and presented as functional, oriented in place, time, and was not seen manifesting any immediate mental health needs." However, mother "was not forthcoming about her mental health diagnosis" and prior mental health issues. Mother denied previous drug or alcohol use, but also reported that she was attending and leading Alcoholics Anonymous (AA) meetings. The report also noted "deeply rooted family conflict within [mother's] immediate family." DCFS stated that D. would not be safe in mother's care, mother had unresolved mental health issues, and mother did not

have stable housing. DCFS recommended that D. be declared a dependent of the juvenile court and that mother receive reunification services.

C. *Supplemental report*

A supplemental report dated October 4, 2018 noted that D. was living with a foster family. The report recounted mother's mental health history and erratic behavior at the hospital, and stated that mother "was evasive and inconsistent in in providing information to hospital staff, and she has continued to be evasive and inconsistent in providing information to DCFS." Mother did not live with maternal grandmother during her pregnancy, but her plan was to live there after D.'s birth. However, during a psychological evaluation conducted in relation to S.'s case, summarized below, mother had reported extensive abuse by maternal grandmother when mother was a child. Mother stated that she chose for S. to be adopted by his foster parents, but the report stated that "after complying with a rigorous court-ordered case plan of therapeutic Family Reunification services for a year, [mother] failed to incorporate, utilize, or benefit from the information presented in these services to resolve the child safety concerns identified by DCFS (and sustained in the petition)." When asked how things would be different with D., mother said only that she is now "ready" to be a parent. DCFS stated, "To the contrary, her behavior at the hospital, her refusal to identify the father, her homelessness prior to [D.]'s birth, and her plan to move newborn [D.] to her abusive childhood home shows she has not made significant improvement." DCFS recommended that D. be adjudged a dependent of the court and reunification services be provided.

The supplemental report noted that mother's parental rights as to S. were terminated on June 1, 2018. A section 366.26 report from S.'s juvenile court case, dated May 1, 2018, was attached. It stated that after S. was detained, mother made "reasonable efforts in attending court ordered programs," but "mother's quality of contact with the child has been non conducive as she has been repeatedly observed to lack the innate ability to appropriately engage with [S.] during monitored and unmonitored contact." Mother maintained consistent visitation with S., and while S. was placed with a relative, "mother was not attuned to [S.'s] cues and began to impose an obsessional-anxious type of behavior with repeated worries as to the child's wellbeing. For example, there were times when [S.] was fussing but mother assumed something was wrong with the child [that] necessitated a medical evaluation." Mother also visited while S. was placed with prospective adoptive parents, who were "able and willing to set boundaries with mother when necessitated given mother's tendency to impose an obsessively inaccurate perception about the child's age appropriate behavior and wellbeing."

Mother made "proactive attempts to remain and advocate to assure [S.'s] medical and regional center needs are being met, mother has become over indulged and appears to exacerbate the child's medical and developmental health by demanding various exams and lab work to rule out any findings. During various appointments, mother has become defensive and argumentative with service providers in the presence of the child while disregarding valid input from the child's primary caregiver." Although mother had completed parenting classes, "it does not appear mother was able to grasp and/or have gained insight as to the PCAT Parenting Model to be effectively applied outside of a

therapeutic setting." A therapist associated with the parenting program "expressed concerns [that] mother did not agree with the skills or knowledge" associated with the program, "and sessions were terminated" because they did not benefit mother's "parental skills or knowledge." During observed visits, "it was obvious mother did not demonstrate applying any learned parenting techniques she should have been equipped with during her parent education programs or other therapy or groups she has documentation of attending." Mother was "observed on multiple occasions to struggle with responding to the child's emotional cues leading to her inability to provide basic care." Mother "has not been able to demonstrate the ability to be left alone with the child outside a structured setting." DCFS recommended terminating mother's parental rights, thus allowing S. to be adopted by his foster parents.

A psychological evaluation of mother by clinical psychologist Wendy Chan was attached to the supplemental report. Although it is undated, the evaluation was apparently completed in early 2017 based on the stated ages of S. and M. DCFS noted in the supplemental report that the evaluation was "the primary basis of DCFS' recommendation not to place [D.] in the [maternal grandmother's] care." The evaluation stated that mother experienced physical and sexual abuse as a child at the hands of her father, who was deported to Israel when mother was approximately seven years old. Mother said maternal grandmother was verbally abusive and may have had Munchausen syndrome by proxy. Mother also said that maternal grandmother would beat mother until she was bruised and watch pornography in front of mother. She also reported that her grandmother (maternal great grandmother) would hit mother

with a belt across the face and head. Mother was also left without adult supervision under the age of 10, and often had dirty clothes. Mother said she called DCFS 19 times and begged them to remove her from her home. Mother reported that at the time of the assessment, she had no contact with her parents.

Mother said she was sexually assaulted multiple times as a teenager. She was sent to a treatment center for suicidal tendencies at age 14, and also went to a program for sexual abuse victims for a year and a half. Mother also said that as a teenager she was sent to live in Israel with her father. The evaluation stated that mother had a "pattern of relating to authority figures with mistrust, fear, and defiance."

Mother's romantic relationships, including the one with S.'s father, tended to be physically abusive. When asked why she did not leave S.'s father due to physical abuse, mother said she did not have anywhere to go, "it was either him or my mother, which was worse?" Mother acknowledged that she lost custody of S. due to the domestic violence and failure to protect him. She also acknowledged putting M. up for adoption. Mother had a history of substance abuse, and said she had been sober for two years. Mother said she attended AA and had a sponsor, and she was sponsoring one person.

Dr. Chan's "diagnostic impression" was that mother suffered from PTSD and "unknown substance use disorder, moderate, in sustained remission." The evaluation noted that a therapist treating mother since August 2016 said mother was "very dedicated" to therapy and learning coping strategies, and she "continues to show positive progress." A mental health coordinator for DCFS said that at times mother refused to listen to other people's concerns about S., and mother "could be

manipulative and had dramatic reactions." However, the mental health coordinator believed that "with solid, robust, and consistent support, [mother] would do well." Chan concluded that mother "does not have emotional, attachment, or PTSD-related issues that would interfere with her ability to relate and connect to others." Chan recommended that mother continue individual therapy, continue substance recovery programs, and continue receiving support from DCFS "once she regains custody of [S.]"

An email from M.'s adoptive parent, dated September 1, 2017, was attached to the supplemental report. It stated that mother remained in contact with the family after the adoption, but mother "does not show an interest in" M. Instead, she calls "to chat about things she is going through." Recently, mother had called and bragged about how she had manipulated maternal grandmother and maternal great grandmother into giving her a down payment on a new car. When asked how she would make the car payments, mother said she would leave S. with maternal grandmother while she worked. When asked about maternal grandmother's abusive history and S.'s safety, mother said, "It's the price I have to pay." Mother later posted on social media a photo of the car in a ditch, with the caption, "How did I end up in the ditch?" The adoptive parent stated, "I think [mother] will do whatever she needs to do to get her son back. She will lie, manipulate, take advantage of a system, whenever she can, for her benefit, not necessarily the benefit of [S.]."

D. *Mother's additional evidence*

Mother submitted visitation logs dating from August 3, 2018 to September 26, 2018. Visits were approximately once or twice per week, for two hours at a time. Maternal grandmother

was present at every visit. Mother's interaction with D. was typically characterized as good, with monitor comments such as "very attentive," "obvious attachment between bio mom and child," "mother consistently held, craddled [*sic*], & showed positive affection to [D.]," "mother was engaging and being caring with [D.]," and "mother was very attentive to infant's needs." Monitors were asked to rate the parent's interaction with the child on a scale of one to 10, and monitors rated mother's interaction with D. from six to 10. However, at one visit at the hospital where D. had a medical appointment, the monitor wrote, "Social workers had to be contacted multiple times this day, including the hospital social worker. Hospital staff had to assist in getting mother to leave the hospital at the end of her visit."

Mother also submitted a psychiatric evaluation from November 2016, which noted that it focused on "determining if patient suffered from a DSM V diagnosis," but would "not attempt to evaluate [mother's] parenting skills or her ability to care for her son, who is currently in DCFS placement." It noted mother's past mental health issues and substance abuse. A case manager with West Side Infant Family Network told the psychiatrist that mother was "compliant and engaged in treatment," and a therapist at Early Head Start said that mother did not demonstrate mental instability. The psychiatrist stated in the evaluation, "I don't see any current evidence to suggest [mother] suffers from a psychiatric illness that would require psychotropics. Patient's current presentation doesn't suggest that she is suffering from mood instability related to bipolar disorder, no evidence of depression, no evidence of a thought disorder." Following S.'s removal and mother's pregnancy with M., "there may be some components of an Adjustment disorder with

predominantly mood components." The psychiatrist recommended continued therapy for mother's PTSD and continued active engagement in AA/NA for mother's substance dependence in remission.

Mother also submitted a letter from "Step Up" stating that mother was receiving "intensive therapeutic and case management services" weekly, and mother "would benefit from continued services." An attached assessment stated that mother was "motivated" for treatment, but "has poor insight into how her symptomology has impacted her life functioning and ability to care for her children."

E. *Jurisdiction and disposition hearing*

At the jurisdiction and disposition hearing on October 4, 2018, the court admitted the above evidence. Counsel for DCFS asked that the petition be sustained. Counsel argued that mother had a lengthy DCFS history, her rights as to S. we reterminated earlier in 2018, she was acting erratically at the hospital following D.'s birth, and she said she would lie to get what she wanted with respect to D. DCFS's counsel also noted that mother could be very charming and appropriate at times, but despite extensive therapy and services for mother in S.'s case, mother remained defensive, argumentative, and obsessive over S.'s health. The same pattern continued here, where mother was loving and appropriate with D. at most visits, but at the hospital visit, social workers had to be called multiple times when mother refused to leave. Counsel for DCFS also noted mother's reports of terrible abuse by maternal grandmother, yet mother lived with maternal grandmother and wanted D. to live there as well.

Counsel for D. agreed with DCFS's assessment, noted D.'s very young age, and stated that "the social worker, the hospital

staff, [mother's] sister, [and] foster parents" all expressed concerns about mother having custody of D. Counsel for D. also said that although mother goes to therapy when ordered to, "she's consistently said she doesn't need any therapy."

Counsel for mother argued that DCFS had not met its burden to show that jurisdiction was appropriate. She argued that S.'s case should not be considered, because that "was a domestic violence case. The petition in the other case did not include mental health allegations against the mother." Counsel asserted that mental illness alone is not a justification for exercising jurisdiction over D., and there was no "indication that these diagnoses are currently a problem for mother." In addition, "if mother is, in fact, treating these problems then the court should not take jurisdiction." Mother's counsel pointed out that mother was continuing therapy to address her issues, and multiple sources said that mother was making ongoing efforts to heal from her past traumas. Counsel also noted that the visitation logs for mother's visits with D. showed excellent attention and bonding. Mother's counsel said the only person who was critical of mother was the foster mother, because when mother stayed at the medical appointment too long, "the mother was inconvenient to her." Counsel asked that if the court finds jurisdiction is appropriate, mother should get unmonitored visits and maternal grandmother should be considered for placement.

The court held that there was "ample evidence to sustain the petition as pled." The court ordered mother to complete parenting education, enroll in individual counseling, and to either complete a new psychological evaluation or update the previous one. The court ordered continued monitored visitation, and allowed mother to attend medical appointments. The court asked

mother again about D.'s father, and mother gave a first name, last name, address, phone number, and date of birth. Mother said he knew about D. and "chose not to come to the NICU" when she was born.

Mother timely appealed.

DISCUSSION

On appeal, mother asserts that there was insufficient evidence to support the court's jurisdiction finding. "'In reviewing a challenge to the sufficiency of the evidence supporting the jurisdictional findings and disposition, we determine if substantial evidence, contradicted or uncontradicted, supports them. "In making this determination, we draw all reasonable inferences from the evidence to support the findings and orders of the dependency court; we review the record in the light most favorable to the court's determinations; and we note that issues of fact and credibility are the province of the trial court."'" (*In re I.J.* (2013) 56 Cal.4th 766, 773.)

Section 300, subdivision (b)(1) applies when "[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness . . . by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness . . . ." (§ 300, subd. (b)(1).) "[S]ection 300, subdivision (b)(1) [requires] DCFS to demonstrate three elements by a preponderance of the evidence: (1) one or more of the statutorily-specified omissions in providing care for the child (inability to protect or supervise the child, the failure of the parent to provide the child with adequate food, clothing, shelter, or medical treatment, or inability to provide regular care for the child due to mental illness, developmental disability or substance abuse); (2) causation; and (3) 'serious physical harm or

illness' to the minor, or a 'substantial risk' of such harm or illness." (*In re Joaquin C.* (2017) 15 Cal.App.5th 537, 561.)

Mother asserts that DCFS was required to prove that she was unable to provide care for D. due to her mental health issues. She argues that DCFS did not meet this burden because at the time of the jurisdictional hearing, there was no substantial risk that D. would suffer physical harm or illness.

Mother compares this case to *In re Joaquin C., supra*, 15 Cal.App.5th 537, in which the mother, Veronica, displayed paranoid and defensive conduct in the hospital after giving birth to Joaquin. (*Id.* at p. 552.) Veronica had "a mental illness described in the record as 'Psychosis vs. Schizophrenia, paranoid type.'" (*Id.* at p. 540.) DCFS worked with Veronica and Joaquin on a voluntary case plan from January 2016 until DCFS detained him on July 7, 2016. (*Id.* at pp. 540-548.) During that time, Veronica and Joaquin lived at home with extended family members. Although Veronica displayed some odd behaviors and missed some therapy appointments between January and July, DCFS consistently found that Joaquin was well-groomed, well cared for, and up-to date on his appointments and immunizations. When Veronica became resistant to additional family maintenance services, DCFS sought a warrant to detain Joaquin, alleging in a section 300 petition, "Despite offering mother a [voluntary family maintenance] case for the past 6 months, mother has not been able and/or is unwilling to adequately address her mental and emotional issues. [¶] Mother's conduct endangers the physical and emotional well being of the child such that the child is at risk of suffering emotional or physical harm." (*Id.* at p. 549.)

The juvenile court sustained the petition, but the Court of Appeal reversed. The Court of Appeal noted, "The evidence was uncontroverted that Joaquin C. was healthy, well cared for, and loved, and that Veronica C. was raising him in a clean, organized home with family support." (*In re Joaquin C., supra,* 15 Cal.App.5th at p. 562.) The court noted that both DCFS and the people close to Veronica said she was caring for Joaquin well. Thus, "[w]hatever Veronica C.'s mental problems might be, there was no evidence that they impacted her ability to provide adequate care for her son." (*Id.* at p. 563.) The court also stated, "The stability of Veronica C.'s housing was identified as a strength of her family. The home was clean and well-organized, with functioning utilities and sufficient food; and Veronica C.'s personal living space within the home was also clean, organized, and appropriately furnished. Veronica C. took Joaquin C. to the pediatrician and had him vaccinated. Joaquin C. had no observed medical, developmental, or emotional problems." (*Ibid.*) The court said jurisdiction was unwarranted because "DCFS provided ample evidence of Veronica C.'s mental illness, but it did not prove that her condition rendered her unable to adequately supervise, protect, or provide regular care for her son." (*Id.* at p. 564.)

This case is not similar to *In re Joaquin C.* Here, mother did not have a stable and reliable living situation; she was homeless before giving birth to D. After D.'s birth, mother moved in with maternal grandmother, who, according to mother, severely abused mother as a child, did not protect mother from physical and sexual abuse by other family members, and then sent mother as a teen to Israel to live with her abusive father. The maternal aunt who lived on the property and the CSW who

worked on S.'s case also did not think D. would be safe in mother's care.

In addition, the evidence did not support a finding that mother was capable of caring full time for an infant with special medical needs. To the contrary, the evidence showed that mother often became difficult and defiant in medical settings. Hospital staff reported that mother was yelling obscenities and acting so erratically that they were concerned about sending D. home with mother. When hospital staff planned to move D. from the NICU to the nursery, mother began displaying paranoid beliefs and resisted the move. At the visit in which mother came to one of D.'s medical appointments, multiple social workers had to be called when mother refused to leave. As D. was born with multiple anomalies that would require follow-up with specialists, mother's apparent inability to navigate medical situations involving D. was a serious concern.

Moreover, unlike the many months of excellent parenting Veronica displayed in *In re Joaquin C.*, here mother had lost parental rights to S. in the month before D. was born. Although mother had been provided extensive reunification services in S.'s case, mother was unable to display progress in her ability to parent S. "The court may consider past events in deciding whether a child presently needs the court's protection." (*In re N.M.* (2011) 197 Cal.App.4th 159, 165.)

Mother now dismisses the issues in that case, which she characterizes as exhibiting "Mother's struggles with [D.'s] autistic half-brother." Mother notes that DCFS observed that mother changed S.'s diaper while he was standing up and held him too long at a visit, and argues that these "are not the kind of attributes that suggest an inability to provide regular care."

However, this argument minimizes the nature of mother's issues with S., which involved exacerbating problems by "demanding various exams and lab work" and "disregarding valid input from the child's primary caregiver." DCFS found that mother failed to gain insight into parenting S., and that she "struggle[s] with responding to the [S.'s] emotional cues leading to her inability to provide basic care." Despite targeted parenting classes and therapy, mother was unable "to demonstrate the ability to be left alone with [S.] outside a structured setting." The problems with mother's parenting of S. far exceeded the position in which mother changed S.'s diaper or whether she held him when he wanted to play.

Mother also asserts that DCFS failed to demonstrate a risk of harm to D. As noted above, mother was unable to unify with S. despite months of reunification services, she was unable to appropriately interact with hospital staff during her hospital stay following D.'s birth, and she was unable to conduct herself appropriately during a visit with D. during a medical appointment. With S., mother also did not respond appropriately to medical professionals' opinions, she did not respond appropriately to S.'s behavioral cues, and the incidents with the clove oil and suppository call into question mother's judgment in her ability to parent an infant. As D. was a newborn with multiple medical anomalies that would need intensive follow-up care, mother's ability to read the infant's cues and interact appropriately with medical professionals was critical to D.'s well-being. "The court need not wait until a child is seriously abused or injured to assume jurisdiction and take the steps necessary to protect the child." (*In re R.V.* (2012) 208 Cal.App.4th 837, 843.) There was ample evidence presented of a substantial risk to D.

under the circumstances. (See, e.g., *In re Travis C.* (2017) 13 Cal.App.5th 1219, 1226 [the inability to precisely predict how mental illness will harm the child does not defeat jurisdiction].)

Substantial evidence therefore supports the court's jurisdictional order.

DISPOSITION

Affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

COLLINS, J.

We concur:

MANELLA, P. J.

CURREY, J.